

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal State Joint Board on Universal Service)	CC Docket No. 96-45
)	
A National Broadband Plan For Our Future)	GN Docket No. 09-51

COMMENTS

Pursuant to the August 3, 2011 Notice of Further Inquiry Into Certain Issues in the Universal Service-Intercarrier Compensation Transformation Proceeding (“Further Notice”),¹ the Public Service Commission of the District of Columbia (“DCPSC”) respectfully submits its comments in response to certain questions regarding preemption of state commission intrastate authority. We also object to a proposed increase in the residential and single-line Subscriber Line Charge (“SLC”).

¹ Public Notice, Further Inquiry into Certain Issues in the Universal Service –Intercarrier Compensation Transformation Proceeding, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, rel. August 3, 2011.

Preemption

The DCPSC opposes any result that constructively or legally preempts state commissions from the historic responsibility of addressing important local concerns and rate matters related to terms and conditions of intrastate service, intrastate public policy efforts such as Telecommunications Relay Service (“TRS”), intrastate universal service, intrastate E911 service, and intrastate service quality. The DCPSC’s ability to address those issues and other matters are now at risk if the Federal Communications Commission (“Commission”) adopts the preemption or forbearance proposed in some plans pending in these dockets.

The DCPSC recognizes the need to address the multi-tiered support structure in the current federal Universal Service Fund (“FUSF”). The DCPSC also recognizes the need to address the compensation structure for calls in which the rate varies depending on the regulatory classification of the communication originated or terminated on telecommunications networks.

However, the DCPSC opposes any regulatory or legal solution to those challenges that relies upon preempting state regulatory authority, including similar results either constructively or through forbearance. The DCPSC particularly opposes those results if they preempt or rely upon forbearance to invalidate or overturn legal and regulatory policies adopted by the DCPSC pursuant to independent District law because this preemption will jeopardize state service quality and the state universal service funds.

For example, the DCPSC has very limited authority over Voice of Internet Protocol (“VoIP”) service providers. This authority is limited to collecting assessments

for the District of Columbia Universal Service Trust Fund (which provides funding for the provision of TRS and Lifeline local telephone service) to the extent that federal law permits.² The Commission recently ruled that states could assess fixed and nomadic VoIP service providers for state universal service funds.³ Any decision to reverse this recent ruling by preempting the states' ability to collect state universal service fees would jeopardize the financial integrity of state universal service funds.

The DCPSC urges the Commission to adopt a plan that avoids preemption, its constructive equivalent, or a forbearance that will overturn or render as a nullity long-standing intrastate statutes, policies, and regulations. State commissions have long been responsible for effectively addressing and resolving intrastate matters within their traditional purview. State commissions have also been long-standing partners working with the Commission in addressing interstate matters as well.

The DCPSC sees no reason to depart from that legal and policy structure. No short-term interest, including the current focus on a national broadband deployment policy, justifies abandoning our long-standing and workable structure. Such preemption is unnecessary, unwarranted, and over-reaching. Preemption of the DCPSC authority is particularly egregious given the fact that the District of Columbia does not receive any high cost funding.

² D.C. Code, § 34-2003(b) (2011 Supp.). In addition, the DC Office of Unified Communications is authorized to assess the E911 service tax on interconnected VoIP service providers, as defined by 47 C.F.R. § 9.3. D.C. Code, § 34-1803(a) (2011 Supp.).

³ *In the Matter of Universal Service Contribution Methodology, Petition of the Nebraska Public Service Commission and Kansas Corporation Commission for Declaratory Ruling or, in the Alternative, Adoption of Rule Declaring that State Universal Service Funds May Assess Nomadic VoIP Intrastate Revenues*, WC Docket No. 06-122, Declaratory Ruling (November 5, 2010).

Increase in Residential Subscriber Line Charge

The Further Notice also seeks comments on the six Price Cap Companies “America’s Broadband Connectivity Plan” (“ABC Plan”) proposal to permit incumbent local exchange carriers (“ILECs”) to increase the SLC on residential consumers up to \$9.20 before increasing the multiline business SLC. The ABC Plan proposes to allow Price Cap ILECs, such as Verizon of Washington, D.C., to increase the SLC on residential and single-line business customers as a means of increasing revenues to offset the presumed decline in revenues from the ABC Plan’s reduction of interstate terminating intercarrier compensation rates to a national uniform default rate of \$0.0007 per minute by July 1, 2017.⁴

The DCPSC strenuously objects to this element of the ABC Plan as being unsupported by any evidence in the record, and concludes that it is an unjust and unreasonable proposal. There is simply nothing in the record to quantify the amount of annual revenue reductions projected from the reduction of interstate terminating intercarrier compensation rates to \$0.0007 per minute. Indeed, there may be revenue *increases* due to the possible increased demand for transport services or originating access services as the rates for terminating access services are reduced.⁵ As a matter of ratemaking principle, the DCPSC does not look to a single ratemaking element when a

⁴ See “America’s Broadband Connectivity (ABC) Plan Framework”, Attachment 1 to Letter from Robert W. Quinn, Jr., AT&T, Steve Davis, CenturyLink, Michael T. Skrivan, FairPoint, Kathleen Q. Abernathy, Frontier, Kathleen Grillo, Verizon, and Michael D. Rhoda, Windstream, to Marlene H. Dortch, FCC, WC Docket No. 10-90 et al. (Filed July 29, 2011) at 10..

⁵ While the ABC Plan doesn’t define “terminating intercarrier access compensation rates,” in the case of Verizon, it appears to refer to the Switched Access Services, Local Switching Premium Rates LS2 - Feature Groups C & D that are currently \$0.002406 per minute in DC, FCC Tariff No1, 12th Revised, Page 6-364, Effective: July 1, 2011.


Price Cap ILEC desires to raise service rates in excess of an approved price capped rate (such as the SLC). Furthermore, there is an inherent violation of price cap ratemaking principles when an ILEC seeks to lower a price capped service rate, such as for interstate terminating access services, and then wants to offset presumed revenue losses for that service by increasing the rates for monopoly or marginally competitive services, such as the proposed increase to the SLC for only residential and single-line business local exchange service customers. Therefore, the DCPSC opposes the Price Cap Companies request to increase the SLC for residential and single-line business customers in order to offset presumed revenue reductions from a decrease in their interstate terminating access services. If, nevertheless, the FCC consents to the request for SLC increases to offset the presumed revenue reductions from a decrease in the interstate terminating access services, the DCPSC opposes any exemption to the SLC increases for multiline business customers. Such exemption would be inequitable because it would apply only to captive residential and small business customers. The FCC should not proceed until it has considered, on the record, the likely adverse economic harm to low income residential local exchange service customers that do not have access to affordable broadband and VoIP services, which services are not subject to the SLC.

Conclusion

The DCPSC appreciates the opportunity to submit Comments in this proceeding.

Respectfully submitted,

**PUBLIC SERVICE COMMISSION
of the DISTRICT OF COLUMBIA**

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